

FILED

JUL 27 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

FREDERICK FRANCIS HEAVY
RUNNER,

Defendant - Appellant.

No. 05-30006

D.C. No. CR-98-00005-DWM

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Montana
Donald W. Molloy, District Judge, Presiding

Submitted July 24, 2006^{**}

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges.

Frederick Francis Heavy Runner appeals from the 24-month term of imprisonment imposed upon the revocation of his supervised release. We have jurisdiction pursuant to 28 U.S. C. § 1291, and we affirm.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Heavy Runner contends that the revocation of his supervised release term and the imposition of additional imprisonment violates the Sixth Amendment under *Apprendi v. New Jersey*, 530 U.S. 466 (2000), *Blakely v. Washington*, 542 U.S. 296 (2004), and *United States v. Booker*, 543 U.S. 220 (2005). This contention is foreclosed by *United States v. Huerta-Pimental*, 445 F.3d 1220, 1223-25 (9th Cir. 2006).

AFFIRMED.